

Bureau of Land Management, Interior

§ 2655.3

(c) *State Director* means the Director, Alaska State Office, Bureau of Land Management.

§ 2655.1 Lands subject to determination.

(a) Holding agency lands located within areas withdrawn by sections 11(a)(1), 16(a), or 16(d) of the Act and subsequently selected by a village or regional corporation under sections 12 or 16, or selected by the regional corporation under sections 12 or 16, or selected by the regional corporation for southeast Alaska in accordance with section 14(h)(8)(B) are subject to a determination made under this subpart.

(b) Lands in the National Park System, lands withdrawn or reserved for national defense purposes and those former Indian reserves elected under section 19 of the Act are not subject to a determination under section 3(e)(1) of the Act or this subpart. Lands withdrawn under section 11(a)(3) or 14(h), except 14(h)(8)(B), of the Act do not include lands withdrawn or otherwise appropriated by a Federal agency and, therefore, are not subject to a determination under section 3(e)(1) of the Act or this subpart.

§ 2655.2 Criteria for determinations.

Land subject to determination under section 3(e)(1) of the Act will be subject to conveyance to Native corporations if they are determined to be public lands under this subpart. If the lands are determined not to be public lands, they will be retained by the holding agency. The Bureau of Land Management shall determine:

(a) Nature and time of use.

(1) If the holding agency used the lands for a purpose directly and necessarily connected with the Federal agency as of December 18, 1971; and

(2) If use was continuous, taking into account the type of use, throughout the appropriate selection period; and

(3) If the function of the holding agency is similar to that of the Federal agency using the lands as of December 18, 1971.

(b) Specifications for area to be retained by Federal agency.

(1) Area shall be no larger than reasonably necessary to support the agency's use.

(2) Tracts shall be described by U.S. Survey (or portion thereof), smallest aliquot part, metes and bounds or protraction diagram, as appropriate.

(3) Tracts may include:

(i) Improved lands;

(ii) Buffer zone surrounding improved lands as is reasonably necessary for purposes such as safety measures, maintenance, security, erosion control, noise protection and drainage;

(iii) Unimproved lands used for storage;

(iv) Lands containing gravel or other materials used in direct connection with the agency's purpose and not used simply as a source of revenue or services. The extent of the areas reserved as a source of materials will be the area disturbed but not depleted as of the date of the end of the appropriate selection period; and

(v) Lands used by a non-governmental entity or private person for a use that has a direct, necessary and substantial connection to the purpose of the holding agency but shall not include lands from which proceeds of the lease, permit, contract, or other means are used primarily to derive revenue.

(c) Interest to be retained by Federal agency.

(1) Generally, full fee title to the tract shall be retained; however, where the tract is used primarily for access, electronic, light or visibility clear zones or right-of-way, an easement may be reserved in lieu of full fee title where the State Director determines that an easement affords sufficient protection, that an easement is customary for the particular use and that it would further the objectives of the act.

(2) Easements reserved in lieu of full fee title shall be reserved under the provisions of section 17(b) of the Act and § 2650.4-7 of this title.

§ 2655.3 Determination procedures.

(a) The State Director shall make the determination pursuant to the provisions in this subpart. Where sufficient information has not already been provided, the State Director shall issue written notice to any Federal agency which the Bureau of Land Management has reason to believe might be a holding agency. The written notice shall provide that the information requested